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SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
08/341,009	10/11/95	MULLER	E CASE1-201617

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11M1/0305

**RECEIVED**

MAR 11 1996

CARMELLA CAVALIERE  
PATENT DEPARTMENT  
DATE MAILED: 11/05

EXAMINER	
ART UNIT	PAPER NUMBER

03/05/96

Please find below a communication from the EXAMINER in charge of this application.

Commissioner of Patents

**Office Action Summary**

Application No.

08/541,009

Applicant(s)

Muller

Examiner

Margaret Einsmann

Group Art Unit

1105

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☐ Responsive to communication(s) filed on \_\_\_\_\_☐ This action is **FINAL**.☐ Since this application is in condition for allowance except for formal matters, prosecution as to ~~the claims~~ is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213. **PATENT DEPARTMENT**

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

**Disposition of Claims**☒ Claim(s) 1-15 is/are pending in the application.

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

☐ Claim(s) \_\_\_\_\_ is/are allowed.☒ Claim(s) 1-15 is/are rejected.☐ Claim(s) \_\_\_\_\_ is/are objected to.☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.**Application Papers**☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.☐ The specification is objected to by the Examiner.☐ The oath or declaration is objected to by the Examiner.

**PLEASE TRANSMIT TO US IMMEDIATELY ART  
CITED ABROAD AND ADDITIONAL PERTINENT  
ART OF WHICH YOU ARE AWARE**

**Priority under 35 U.S.C. § 119**☒ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).☐ All ☐ Some\* ☒ None of the CERTIFIED copies of the priority documents have been☒ received.☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).**Attachment(s)**☒ Notice of References Cited, PTO-892☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 2☐ Interview Summary, PTO-413☐ Notice of Draftsperson's Patent Drawing Review, PTO-948☐ Notice of Informal Patent Application, PTO-1521-20161/A**DOCKETED FOR** June 5/1996

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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**Part III DETAILED ACTION**

1. Claims 2,4,5 and 14 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 2 is broader in scope than claim 1 for stating that the alkyl groups may be interrupted by oxygen which is not considered as a substitution on the alkyl.

Claim 4 is broader in scope than claim 1 for the reason stated supra and also since Y is not defined as being formula (3) in claim 1.

Claim 5 is included in the rejection since it is dependent on claim 4.

Claim 14 is indefinite for failing to define material process steps.

2. 35 U.S.C. § 101 reads as follows:

"Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter or any new and useful improvement thereof, may obtain a patent therefore, subject to the conditions and requirements of this title".

Claim 15 rejected under 35 U.S.C. § 101 because a "use" is non-statutory. Therefore the claim is not further considered.

3. The following is a quotation of 35 U.S.C. § 103 which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in

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section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Subject matter developed by another person, which qualifies as prior art only under subsection (f) or (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

4. Claims 1-10,13-14 are rejected under 35 U.S.C. § 103 as being unpatentable over Harms, GB 2,034,731.

Harms discloses water soluble reactive dyestuffs inclusive of applicant's dyestuff 1 when it contains the selected alkyl radicals as the B<sub>1</sub> aliphatic bridge member. Harms teaches that such bridge may be a straight or branch chain alkylene having 2-15 carbon atoms. See page 1 especially lines 29-30.

Harms differs from formula 1 in failing to exemplify the specific five and six carbon isomers as claimed herein.

The subject matter would have been obvious to the skilled artisan absent a showing of criticality because it is clear from the examples of bridge members exemplified in the disclosure from page 1 lines 32 to page 2 that five and six carbon alkyl isomers are preferred embodiments, and the dyes containing isomers as herein claimed would be expected to perform in a like manner. The method of preparation is on page 4 reading on claim 13; the

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abstract discloses the utility for dyeing hydroxyl and nitrogen containing fiber materials.

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Note example 6 and others of 3,558,621.

6. Claims 11-12 are allowable over the prior art of record.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Margaret Einsmann whose telephone number is (703) 308-3826. The examiner can normally be reached on Monday to Thursday and alternate Fridays from 7:00 A.M. to 4:30 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Lieberman, can be reached on (703) 308-2523. The fax phone number for this Group is (703) 305-3600.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0661.

*Margaret Einsmann*

MARGARET EINSMANN  
PRIMARY EXAMINER 1105

February 29, 1996